

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20884

Application 28971 of James W. Austin (dba Nicasio Farms)

Post Office Box 537, Nicasio, CA 94946

filed on February 9, 1987, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream

Nicasio Reservoir thence

Nicasio Creek thence

Lagunitas Creek thence

Tomales Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Township	Range	Base and Meridian
North 576,950 feet and East 1,361,600 feet by California Coordinate System, Zone 3	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	35	3N	8W	MD

* projected

County of Marin

3. Purpose of use:	4. Place of use:	Section *	Township	Range	Base and Meridian	Acres
Irrigation	W $\frac{1}{2}$ of NW $\frac{1}{4}$	35	3N	8W	MD	15

* projected

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 47 acre-feet per annum to be collected from December 1 of each year to March 31 of the succeeding year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2001. (0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 2005. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit

and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. Permittee shall comply with the following provisions which are derived from the agreement between permittee and Marin Municipal Water District executed on June 12, 1987 and filed with the State Water Resources Control Board:

- a. This permit is specifically subject to the prior right of the Marin Municipal Water District under appropriation issued pursuant to Application 17317. During any water year (October 1 to September 30) when Nicasio Reservoir does not fill due to insufficient inflow and thereafter until Nicasio Reservoir does fill, permittee shall not withdraw any water collected to storage under this permit during the then current collection season for use outside of the reservoir except for emergency fire control purposes.
- b. Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoir. Permittee shall record the staff gage reading on or about October 1 and December 1 of each year and on or about April 1 of each following year. Such readings, as verified by a designated representative of Marin Municipal Water District, shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

Permittee shall allow a designated representative of the Marin Municipal Water District reasonable access to the reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoir.

- c. Except as hereinafter set forth, permittee shall within seven days of written or verbal request by the Marin Municipal Water District release stored water at the maximum practicable rate to flow downstream into Nicasio Reservoir up to the total amount collected to storage during the then current or immediately concluded collection season or until the storage rights at Nicasio Reservoir are satisfied.

Permittee shall not be obligated to release: 1) water diverted to storage in the reservoir under other rights and 2) water in the reservoir below the previous October 1 staff gage reading.

Verbal requests by the District for release of stored water will be immediately confirmed in writing.

Inclusion of this permit of certain provisions of the referenced agreement shall not be construed as disapproval of other provisions of the agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)
(000T001)
(0070047)
(0000051)

14. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043)

15. Permittee shall fence the reservoir to exclude cattle from its perimeter in order to protect water quality and to allow establishment and persistence of native riparian and emergent vegetation around the reservoir and in its shallow fringes.

(0400500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

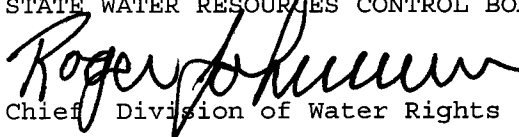
Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

December 17, 1996

STATE WATER RESOURCES CONTROL BOARD

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Chief, Division of Water Rights